The Legislative Framework

This information bulletin provides information on the structure and purpose of the various legislative documents used to regulate work health and safety (WHS) in the Northern Territory.

How the law works

The Act

The *Work Health and Safety (National Uniform Legislation) Act* – WHS (NUL) Act – is the cornerstone of legislative and administrative measures to maintain and improve occupational health and safety in the Northern Territory.

The WHS (NUL) Act sets out the objects, key principles, duties, obligations and rights in relation to occupational health and safety. The general nature of the duties imposed by the WHS (NUL) Act means that they cover a very wide variety of circumstances, do not readily date and provide considerable flexibility for a duty holder – a person or organisation given legal responsibilities under the WHS (NUL) Act – to determine what needs to be done to comply.

The Regulations

The *Work Health and Safety (National Uniform Legislation) Regulations* – WHS (NUL) Regulations – are made under the authority of the WHS (NUL) Act. They specify the ways duties imposed by the Act must be performed, or prescribe procedural or administrative matters to support the Act, such as requiring licenses for specific activities, keeping records, or notifying certain matters to NT WorkSafe.

Work Health Safety Standards

Standards referred to or ‘called up’ in Regulations

The WHS (NUL) Act does not mention any specific standards or Codes of Practice. The WHS (NUL) Regulations however, do adopt certain Australian Standards, however the number that have been called up have been significantly reduced. For example, Regulation 163 – Electrical Installations on Constructions Sites, specifically states that these installations must comply with Australian Standard AS 3012. This Australian Standard therefore forms part of the Regulations and must be complied with as though it were a Regulation. Other examples of Standards that form part of the regulations are the:

- AS/NZS 2299.1:2007 as it relates to the fitness criteria specified in clause M4 of Appendix M
- AS/NZS 60079.10 (Electrical apparatus for explosive gas atmospheres – Classification of hazardous areas as it relates to the definition of *hazardous area* under Regulation 5
- AS/NZS 61241.10 (Electrical apparatus for use in the presence of combustible dusts – Classification of areas where combustible dusts may be present) as it relates to the definition of *hazardous area* under Regulation 5.
Standards not specifically called up in regulations

These can be Australian Standards or other technical documents. When they are not referenced in the regulations, they have no primary legal status. They provide useful, current information on safe operation, design, manufacture and maintenance of plant for example or for handling various chemicals. They can, however, be used as evidence in court that there was an accepted standard for doing something that may not have been followed and what was actually done did not properly deal with the problem.

Approved Codes of Practice

An approved code of practice adopted under the WHS (NUL) Act documents practical ways of complying with workplace health and safety laws. While an approved code of practice does not have the same status as law, it provides practical guidance on how to control risk. An approved code of practice can be a code, a standard or any document approved by the minister or in the case of a particular workplace; approved by the Authority.

You don’t have to comply with a code of practice but you may be required (in the case of a workplace accident, for example) to show that the risk management system you have chosen to use achieves the same or a better safety outcome than what is contained in the approved code of practice. So if you follow an approved code of practice, you can be confident that you will achieve the minimum standards required to meet your obligations under the WHS (NUL) Act and Regulations.

An approved code of practice can relate to workplaces generally; or a particular class or type of workplaces; or a particular workplace.

A code of practice if it relates to workplaces generally or a particular class of workplaces – takes effect when approved by the Minister and if it relates to a particular workplace – takes effect when approved by the Authority.

Information Bulletins

Effective WHS regulation requires that NT WorkSafe provides clear, accessible advice and guidance about what constitutes compliance with the Act and Regulations. A number of publications in the form of Information Bulletins and Guides are available on a range of topics are accessible on the NT WorkSafe website.

Legislation administered by NT WorkSafe

NT WorkSafe is responsible for administering a range of legislation and related regulations throughout the Northern Territory including the:

- Workers Rehabilitation and Compensation Act and Workers Rehabilitation and Compensation Regulations
- Dangerous Goods Act and Dangerous Goods Regulations
- Transport of Dangerous Goods by Road and Rail (National Uniform Legislation) Act and Transport of Dangerous Goods by Road and Rail (National Uniform Legislation) Regulations
- Radioactive Ores and Concentrates (Packaging and Transport) Act and Radioactive Ores and Concentrates (Packaging and Transport) Regulations
- Electricity Reform Act and Electricity Reform (Safety and Technical) Regulation.

Contact us

For further information please contact us on 1800 019 115, via email at ntworksafe@nt.gov.au or go to the NT WorkSafe website at www.worksafe.nt.gov.au